

REMARKS

Reconsideration of presently solicited Claims 1, 4, 5, 8 and 9 (organic electrolytic solution) and 10 to 12 and 19 to 21 (lithium sulfur battery) respectfully is requested. For the reasons indicated hereafter, these claims are urged to be in condition for allowance.

As described in detail in the Specification, Applicants have provided an improved organic electrolytic solution for use in a lithium sulfur battery and a lithium sulfur battery that incorporates the same. Improved operating stability and improved electrical conductivity are provided.

The continued rejection of presently solicited claims 1, 4, 5, 8 to 12, and 19 to 21 on the ground of obviousness-type double patenting over the claims of copending U.S. Patent Application No. 10/449,775 would be inappropriate. The claimed subject matter of U.S. Patent Application No. 10/449,775 is not encompassed by the presently solicited claims. The claims of U.S. Patent Application No. 10/449,775 specify the inclusion of "trimethoxypropane" in all instances. The claims of the present Application specify the presence of a different compound of formula (2) in all instances. The present Application and U.S. Patent Application No. 10/449,775 are commonly owned by Samsung SDI Co. Ltd. In an effort to expedite prosecution and for administrative convenience, a Terminal Disclaimer to Obviate a Provisional Double Patenting Rejection Over a Pending "Reference" Application is being filed herewith. The withdrawal of the rejection is urged to be in order and is respectfully requested.

Finally, the continued rejection of presently solicited Claims 1, 4, 5, 8 to 12, and 19 to 21 under 35 U.S.C. §102 over the different teachings of International

Publication No. WO 00/36683 to Mikhaylik et al. would be lacking sound technical and legal bases. In an effort to further expedite prosecution, independent Claim 1 has been amended to specify a combination of parameters with respect to the organic electrolytic solution which have been found by Applicants to make possible improved operating efficiency and improved electrical conductivity. Each of the other claims is dependent on Claim 1 and specifies such subject matter in even greater detail. In all instances, the presently solicited claims specify a compound of Formula (2), a polyglyme, and a dioxolane in specified concentrations within the organic electrolytic solution. This parameter combination of Applicants' specifically claimed electrolytic solution has been found by Applicants to yield improved results and is urged to be absent in the reference.

It is well established law that patentability is negated under 35 U.S.C. §102 only when the prior disclosure is identical to the invention sought to be patented. Each and every element of the claimed invention must be disclosed in a single reference in complete detail. See Akzo N.V. v. United States ITC, 808 F.2d 1471, 1 U.S.P.Q.2d 1241 (Fed. Cir. 1986); Orthokinetics, Inc. v. Safety Travel Chairs, Inc., 806 F.2d 1565, 1 U.S.P.Q.2d 1081 (Fed. Cir. 1986); Rolls-Royce Ltd. v. GTE Valeron Corp., 800 F.2d 1101, 231 U.S.P.Q. 185 (Fed. Cir. 1986); Kloster Speedsteel AB v. Crucible Inc., 793 F.2d 1565, 230 U.S.P.Q. 81 (Fed. Cir. 1986); Great Northern Corp. v. Davir Core & Pad Co., 782 F.2d 159, 228 U.S.P.Q. 356 (Fed. Cir. 1986); In re Donohue, 766 F.2d 531, 226 U.S.P.Q. 619 (Fed. Cir. 1985); W.L. Gore & Assoc. v. Garlock, Inc., 721 F.2d 1540, 220 U.S.P.Q. 303 (Fed. Cir. 1983); SSIH Equip. S.A. v. United States ITC, 713 F.2d 746, 218 U.S.P.Q. 678 (Fed. Cir. 1983); and Richardson v. Suzuki Motor Co., 868 F.2d 1226, 9 U.S.P.Q.2d 1913

(Fed. Cir. 1989). The withdrawal of the rejection is urged to be in order and is respectfully is requested.

If there is any remaining point that requires clarification prior to the allowance of the Application, the Examiner is urged to telephone the undersigned attorney so that the matter can be discussed and promptly resolved.

Respectfully submitted,

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Date: November 28, 2006

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